

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEVEN DEGRAFF,

Plaintiff,

v.

No. 10-cv-0988 JAP/SMV

**NEW MEXICO DEPARTMENT
OF CORRECTIONS;
GREGG MARCANTEL,¹ Secretary
of Corrections, in his official capacity;
DEANNA HOISINGTON, Warden of
Western New Mexico Correctional Facility;**

Defendants.

ORDER GRANTING MOTION FOR TELEPHONIC CONFERENCE

THIS MATTER is before the Court on Plaintiff's Motion for Pre-Trial Conference Pursuant to Rule 26(f), Fed. R. Civ. P. [Doc. 37], which was filed on January 24, 2012. Plaintiff requests a conference "so that matters pending before the Court may be discussed and discovery started." *Id.* at 1. Defendants responded in opposition on February 7, 2012. Response to Plaintiff's Motion for Pre-Trial Conference Pursuant to Rule 26(f), Fed. R. Civ. P. [Doc. 39]. Defendants' opposition is based solely on Local Rule 16.3's exclusion of Prisoner Petitions from standard case management deadlines. *Id.* at 1 (citing D.N.M.LR-Civ. 16.3).

Defendants are correct that this case is not bound by the discovery time line in Fed. R. Civ. P. 26. The Court, however, has the inherent authority to hold status conferences in order to manage

¹ Gregg Marcantel, who became the Secretary of the New Mexico Corrections Department in November of 2011, is substituted for Lupe Martinez, who no longer holds that position. See New Mexico Corrections Department, <http://corrections.state.nm.us/secretary.html> (last visited February 8, 2012) (Mr. Marcantel became Secretary in November of 2011); see also FED. R. CIV. P. 25(d) ("[W]hen a public officer who is a party in an official capacity . . . ceases to hold office while the action is pending[, t]he officer's successor is automatically substituted as a party.").

its docket. *See* FED. R. CIV. P. 72(b) (authorizing magistrate judges to conduct all necessary proceedings to recommend dispositions of prisoner petitions); Order of Reference Relating to Bankruptcy Appeals, Social Security Appeals, Prisoner Cases, Non Prisoner Pro Se Cases [Doc. 5] (referring the instant case to the magistrate judge “to conduct hearings, if warranted”). The Court, in its discretion, FINDS that a telephonic status conference is warranted.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Pre-Trial Conference Pursuant to Rule 26(f), Fed. R. Civ. P. [Doc. 37] is GRANTED to the extent that he requests a telephonic hearing.

IT IS FURTHER ORDERED that a telephonic status conference shall be held on Friday, February 24, 2012 at 9:30 a.m. The parties shall call the Court’s “Meet Me” Line at 505-348-2357 to be connected to the proceedings.

IT IS FURTHER ORDERED that Defendant Secretary of Corrections, Gregg Marcantel, shall be responsible for making arrangements for Plaintiff to have access to a reliable telephone line with long-distance access, if needed, so that Plaintiff is able to participate in the telephonic proceedings.

IT IS FURTHER ORDERED that the Court Clerk substitute the name of Gregg Marcantel, the current Secretary of Corrections, for that of Lupe Martinez.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge